

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

JUSTIN WEST,

Plaintiff,

vs.

**SAFECO INSURANCE COMPANY OF
INDIANA AND GIAN FIGARO,**

Defendants.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 3:15-cv-01058-P

JOINT MOTION TO REMAND

Plaintiff Justin West, and Defendants Safeco Insurance Company of Indiana (“Safeco”) and Gian Figaro (collectively the “Parties”), by and through their respective counsel, hereby file this Joint Motion to Remand, and would show the Court as follows:

I.

BACKGROUND

This dispute arose out of a claim for hail and wind damage to Plaintiff’s property. More specifically, Plaintiff submitted a claim for alleged storm damages to his home under a homeowner’s insurance policy issued by Safeco to Plaintiff. A disagreement arose regarding the scope and extent of damages to Plaintiff’s property. As a result, Plaintiff filed this lawsuit against Safeco and Figaro in the 68th Judicial District Court of Dallas County, Texas. Plaintiff named both Safeco and Gian Figaro as a defendant. Figaro is the adjuster that inspected Plaintiff’s property and provided an estimate of damages on behalf of Safeco.

Plaintiff sued Safeco and Figaro for violations of the Texas Insurance Code and the Texas Deceptive Trade Practices Act (“DTPA”), and Safeco only for breach of

contract and violations of Chapter 542 of the Texas Insurance Code (the “Prompt Payment Act”).

On April 7, 2015, Safeco filed a Notice of Removal, thereby removing this case to this Court. Though Plaintiff named an individual defendant who is a resident of Texas (Figaro), Safeco nonetheless sought removal based on its claim that Defendant Figaro was improperly joined [**Dkt. No. 1**].

II.

AGREEMENT TO REMAND

The Parties have held constructive negotiations regarding the remand of this lawsuit. Safeco maintains its position as set forth in the Notice of Removal. However, in the interests of judicial economy, the Parties have agreed to remand this case to the Dallas County District Court.

III.

CONCLUSION AND PRAYER

WHEREFORE, PREMISES CONSIDERED, the Parties hereby request that this Court remand this case to the Dallas County District Court, 68th Judicial District. The Parties further pray for all other relief to which they may be entitled and request that costs and fees be borne by the respective party incurring the same.

Respectfully submitted,

/s/ Mark D. Tillman

MARK D. TILLMAN

State Bar No. 00794742

ELIZABETH D. KNIGHT

State Bar No. 24065566

TILLMAN BATCHELOR LLP

1320 Greenway Drive, Suite 830

Irving, Texas 75038

Telephone: (214) 492-5720

Facsimile: (214) 492-5721

Email: mark.tillman@tb-llp.com

elizabeth.knight@tb-llp.com

**ATTORNEYS FOR DEFENDANTS
SAFECO INSURANCE COMPANY OF
INDIANA AND GIAN FIGARO**

/s/ Richard D. Daly

Richard D. Daly

TBA No. 00796429

Ana M. Ene

TBA No. 24076368

DALY & BLACK

2211 Norfolk Street, Suite 800

Houston, Texas 77098

(713) 655-1405 (Telephone)

(713) 655-1587 (Facsimile)

rdaly@dalyblack.com

aene@dalyblack.com

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing has been forwarded to all counsel of record via electronic means on the 1st day of June, 2015.

/s/ Mark D. Tillman

MARK D. TILLMAN